

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8919

IN THE MATTER OF:

Served August 18, 2005

Application of AMERICA)	Case No. AP-2005-66
TRANSPORTATION SERVICES, INC.,)	
for a Certificate of Authority --)	
Irregular Route Operations)	

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If an applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.¹ A determination of compliance fitness is prospective in nature.² The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.³ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁴ The past conduct of an applicant's owners and officers is relevant to a determination of applicant's compliance fitness.⁵

The \$100 application fee was paid by check drawn on the account of America Limousine & Bus Service, Inc. The initial order in this proceeding directed applicant to explain its relationship with America

¹ In re Zee Transp. Serv. Inc., No. AP-04-115, Order No. 8275 (Sept. 20, 2004); In re Nevah Transports, LLC, No. AP-02-121, Order No. 7001 (Jan. 21, 2003).

² Order No. 8275; Order No. 7001.

³ Order No. 8275; Order No. 7001.

⁴ Order No. 8275; Order No. 7001.

⁵ Order No. 8275; Order No. 7001.

Limousine & Bus and why America Limousine & Bus paid the application fee.

Applicant's response is that its vice president, Elie Gharib, is also "an employee for America Limousine & Bus Svc, Inc." and that Mr. Gharib "works in the accounts payable department for [America Limousine & Bus Svc] and he used their checks." But there is no indication from America Limousine & Bus Svc that this was done with its knowledge and approval. If not, then the issue of embezzlement is raised, which if found to have occurred would disqualify this applicant.⁶

On this record, we cannot say that applicant has established regulatory compliance fitness.

THEREFORE, IT IS ORDERED that the application of America Transportation Services, Inc., for a certificate of authority, irregular route operations, is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, MILLER, AND SMITH:



William S. Morrow, Jr.
Executive Director

⁶ See In re Holiday Tours, Inc., No. 11, Order No. 206 (Oct. 11, 1962) (compliance fitness lacking where owner had been found guilty of embezzlement).